

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

SINCERE TERRY, *et al.*,

Plaintiffs,

v.

CITY OF OKLAHOMA CITY,
OKLAHOMA, *et al.*,

Defendants.

Case No. 5:22-cv-522-G

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Pursuant to LCvR7.1(m), Plaintiffs respectfully submit notice of *Keith A. Sylvester v. Fulton County Jail, et al.*, 94 F.4th 1324 (11th Cir. 2024),¹ as supplemental authority in connection with the pending Motions to Dismiss (Dkt. 40, 41, 42).

In *Sylvester*, the Eleventh Circuit held that a reasonable jury could find that a detective recklessly and intentionally omitted material exonerating facts from a warrant affidavit in a way that misled a state judge into thinking there was probable cause. *Id.* at 1327, 1334. The court reaffirmed that legal process justifying an arrest is “constitutionally infirm if the officer who provided the probable cause affidavit ‘intentionally or recklessly made misstatements or omissions necessary to support the warrant.’” *Id.* at 1329 (quoting *Luke v. Gulley*, 50 F.4th 90, 96 (11th Cir. 2022)).

The court held that the warrant affidavit “would not have established arguable probable cause if it had included the full timeline” of the night at issue. *Id.* at 1331-32.

¹ A copy of the *Keith A Sylvester v. Fulton County Jail, et al.* decision is attached hereto as Exhibit 1.

The court further held that the detective’s actual knowledge of exonerating information “would provide a sufficient basis for a jury to conclude that the omissions of those facts were intentional” and a failure “to learn about the exonerating information” could lead “a reasonable jury [to] find that Detective Barnett’s omission of that information was due to recklessness.” *Id.* at 1332-33.

Sylvester is relevant to Plaintiffs’ malicious prosecution claim under the Fourth Amendment (*see, e.g.*, Dkt. 39, ¶¶ 143-150; Dkt. 45, § II.B).

Dated: April 25, 2024

Respectfully submitted,

/s/Devraat Awasthi

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**Admitted pro hac vice*

CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2024, I electronically filed the foregoing Notice of Supplemental Authority with the Clerk of Court via the Court's CM/ECF system, which effects service upon all counsel of record.

Respectfully submitted,

/s/ Devraat Awasthi

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